

To: Torres, Elineth[Torres.Elineth@epa.gov]; Dalcher, Debra[dalcher.debra@epa.gov]
From: Jared Rothstein
Sent: Tue 1/30/2018 6:48:29 PM
Subject: EPA "Once In, Always In" HAP Policy

Hello Debra and Elineth,

I recently reviewed the U.S. EPA [guidance memorandum](#) announcing its withdrawal of its “once in always in” policy for the classification of major sources of hazardous air pollutants under section 112 of the Clean Air Act, and had a couple questions regarding implementation. Do you know which states have the delegated authority to ratify this change in policy? My understanding is that it would only apply to the states that have been delegated by EPA to administer the 112 program. I assume EPA’s position is that the states with delegated authority are obliged to follow the new policy if they want to maintain their delegation, because the new memo says clearly that the old policy is not authorized by the statute? Any information you might have regarding state adoption of the policy would be very helpful.

Thank you!

Jared

Jared A. Rothstein | *Senior Manager, Regulatory Affairs*

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To: Harlow, David[harlow.david@epa.gov]
From: POLITICO Pro Energy Whiteboard
Sent: Tue 1/30/2018 4:04:56 PM
Subject: Pruitt: 'Once in, always in' rule change was policy decision

By Annie Snider

01/30/2018 11:02 AM EDT

EPA Administrator Scott Pruitt said this morning that last week's decision to end Clinton-era "once in, always in" Clean Air Act requirements was not made by the agency's air experts.

"That was a decision that was made outside of the program office of air. It was a policy office decision," Pruitt told the Senate Environment and Public Works Committee.

The comment came in response to a question from Sen. [Tom Carper](#) of Delaware, the top Democrat on the committee, about whether the agency conducted an analysis of the potential health effects of the policy change.

"I find it incredible that EPA did this seemingly without knowing or caring about potential health effects of its action," Carper said.

The "once in always in," codified in now revoked 1995 policy guidance, was designed to prevent major emitters like power plants and factories from getting out of tough requirements to limit their toxic air emissions. It required that any emitter that qualified as a "major" source of hazardous air pollutants would permanently be subject to that tougher standard to comply with MACT rules, even if its emissions dropped low enough to be considered an "area" source subject to fewer or no requirements.

To view online:

<https://www.politicopro.com/energy/whiteboard/2018/01/pruitt-once-in-always-in-rule-change-was-policy-decision-503744>

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From: Atkinson, Emily
Location: Hall of States, 444 North Capitol St NW, Room 230, Washington DC 20001
Importance: Normal
Subject: Winter 2018 Board Meeting, National Association of Clean Air Agencies Speech (Confirmed)
Start Date/Time: Wed 1/31/2018 6:30:00 PM
End Date/Time: Wed 1/31/2018 8:30:00 PM
[Invites / forms for Bill Wehrum & Mandy Gunasekara](#)
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[Bill Wehrum Event Form PDAA NACAA.DOCX](#)
[Confirmed 1/31/18 at 1:30pm: Invites / forms for Bill Wehrum & Mandy Gunasekara](#)
[Meeting with NACAA next week](#)

30-60 mins with Mandy Gunasekara on strategic plan & cooperative federalism issues

60 mins with Bill Wehrum on office of air issues

To: Harlow, David[harlow.david@epa.gov]
From: POLITICO Pro Energy
Sent: Fri 1/26/2018 10:44:33 AM
Subject: Morning Energy: Trump takes the stage — Plenty of room at the White House inn — One-on-one with Barrasso

By Kelsey Tamborrino | 01/26/2018 05:42 AM EDT

With help from Eric Wolff

TRUMP TAKES THE STAGE: President Donald Trump is set to speak this morning from Davos, Switzerland, where he'll deliver a simple message to world leaders: "A prosperous America benefits the world, and fair economic competition is essential to that prosperity," the White House said. Trump prepared for his speech Thursday by meeting with longtime U.S. allies: The prime ministers of Great Britain and Israel, and he declared that he had arrived with a message of "peace and prosperity." More on that here.

"When I decided to come to Davos, I didn't think in terms of elitists or globalists, I thought in terms of lots of people who want to invest lots of money and they're all coming back to the United States. They're coming back to America, and I thought of it much more in those terms," Trump explained in an interview with CNBC. "After I said that I was going, there were massive stories about the elite and the globalists and the planes flying in and everything else. It's not about that. It's about coming to America, investing your money, creating jobs, companies coming in. We're setting records. Every day, we're setting records."

Already "energy dominance" remarks emerged this week from Energy Secretary Rick Perry, but watch for Trump to tout trade policy in his address to the World Economic Forum, including his brand new tariffs on solar equipment. The White House outlined that the president will describe how "America First" fits into the forum's theme of "a shared future in a fractured world." On trade, Trump will likely discuss the administration's support of trade that is fair and reciprocal to the U.S. "The global economy cannot flourish unless all countries follow the rules and are held responsible when they don't," the White House said. The president is also looking to "forge closer ties" with allies, including French President Emmanuel Macron and Canadian Prime Minister Justin Trudeau — who have bumped heads with Trump on trade and climate policies in the past. Watch it here.

HAPPY FRIDAY! I'm your host Kelsey Tamborrino. Many of you were very close, but no one guessed that in 1975, the Senate adopted a rule requiring most of its committees to work in public. That same year, the Senate approved open conference committee sessions. For today: How many senators attended the world premiere of "Mr. Smith Goes to Washington" held at Constitution Hall? Send your tips, energy gossip and comments to ktamborrino@politico.com, or follow us on Twitter [@kelseytam](https://twitter.com/kelseytam), [@Morning_Energy](https://twitter.com/Morning_Energy) and [@POLITICOPro](https://twitter.com/POLITICOPro).

PLENTY OF ROOM AT THE WHITE HOUSE INN: Republican lawmakers are increasingly concerned that the Trump administration has yet to fill several energy-related vacancies across the federal government. A year out from Trump's inauguration, still no name has been selected for key positions, including overseeing EPA's Superfund program or to lead

the Bureau of Land Management or National Park Service, Pro's Anthony Adragna reports.

Let's break this down: Trump has yet to nominate 244 people out of the 635 key positions requiring Senate confirmation, according to a [tracker](#) from The Washington Post and Partnership for Public Service. Of those, there are no nominees for seven of the 17 slots at Interior requiring Senate confirmation, Anthony reports. At EPA, it's six of 13 spots, and 11 of 22 positions at the Energy Department. There's also been no movement on vacancies within the White House's Office of Science and Technology Policy, including the top spot, the longest that role has gone without a nominee.

Why, you ask? Some Republicans blame Democrats for drawing out the confirmation process, which others say has driven other potential candidates to opt out of government service altogether. But Trump himself vowed in an [interview](#) with Forbes in November that he didn't intend to fill out agency staffing. "I'm generally not going to make a lot of the appointments that would normally be — because you don't need them," Trump said.

Still, the vacancies are cause for frustration for many: "It has to make it just that much more difficult within the agencies to just be so short-teamed," Senate Energy Chairman [Lisa Murkowski](#) said. "I know people who have been nominated already who are getting really frustrated. It's demoralizing," Sen. [Dan Sullivan](#) said. "They have real lives. They have bills they got to pay. We need to do better." Read the story [here](#).

ONE-ON-ONE WITH BARRASSO: What's Year 2 atop Senate EPW mean for Wyoming's [John Barrasso](#)? In an interview with Anthony, Barrasso echoes the White House's focus on infrastructure, praises his Democratic cohort [Tom Carper](#) and discusses where exactly he falls in ongoing talks on the Renewable Fuel Standard. **Some highlights from [the exclusive interview](#):**

On infrastructure: "[P]art of what we're doing with WRDA right now is infrastructure. Water resource development is infrastructure. But you need to deal with the roads, the highways, the bridges, the dams, all of it out there. So, I'm optimistic. We'll be discussing it at the retreat and I hope the president brings it up in the State of the Union. And I mentioned that to both [National Economic Council] Director [Gary] Cohn and [Transportation] Secretary [Elaine] Chao that I think it would be good to have the president put some meat on the bones during the State of the Union address next Tuesday."

On paying for it: "There's a difference between rural and urban. Public-private partnerships] can work in urban areas. They're not going to work in rural areas."

On Renewable Fuel Standard talks: "If a refinery goes bankrupt because of a system that the government put in place after the refinery was built, that's not a system that's worked. So we need to modernize and modernize this to take into account where we are today with the technology and the vehicles and the amount of fuel being consumed. [Sen. [John Cornyn](#)'s] leading the efforts to develop this bipartisan reform bill that all the stakeholders can support and then once that's introduced the committee is going to give it serious consideration."

ONCE-IN POLICY NO MORE: EPA air chief Bill Wehrum withdrew Clinton-era guidance

Thursday that was designed to prevent major emitters from getting out of strict requirements to limit their toxic air emissions. "This guidance is based on a plain language reading of the statute that is in line with EPA's guidance for other provisions of the Clean Air Act," Wehrum said in a [statement](#). "It will reduce regulatory burden for industries and the states, while continuing to ensure stringent and effective controls on hazardous air pollutants." In a memo, EPA revoked the 1995 so-called once-in always-in policy and said it would consider new regulations to clarify its interpretation of the law, Pro's Alex Guillén [reports](#). Under the previous policy, any emitter that qualified as a "major" source of hazardous air pollutants, like power plants and factories, would forever be subject to that tougher standard to comply with MACT rules, even if its emissions dropped low enough to be considered an "area" source subject to fewer or no requirements, Alex writes. Read the memo [here](#).

Barrasso and Sen. Shelley Moore Capito previously asked EPA Administrator Scott Pruitt to withdraw the policy earlier this month, they said on Thursday, cheering the move. "Withdrawal of this policy means manufacturers, oil and gas operations, and other types of industrial facilities will have greater incentive to reduce emissions," Barrasso said in a statement. "Now these companies can help protect the environment without wasting time and money on unnecessary red tape."

Not so fast: [Ed Markey](#) said the move "could be the worst environmental sin yet from the Trump administration." Greens were also quick to call out the decision; The League of Conservation Voters's Sara Chieffo called it a "gutting" of public health protections.

BIODIESEL PRODUCERS CREDIT STILL IN DISCUSSION: The biodiesel producers' credit supported by Sen. [Chuck Grassley](#) and some Midwestern senators still has life. [Orrin Hatch](#)'s tax extenders bill revives the credit for blenders of biodiesel, but the Finance committee members are still considering moving it to a producers credit, according to Derek Theurer, an aide to [Bill Cassidy](#) who was only speaking at a Jones Day tax conference Thursday. "There's members on the Senate side that have views both ways. Some that would like to move to producers' credits, others that are concerned about impact on consumers, the price of fuel," he said. "That's the kind of competing interests being weighed and members are continuing to discuss it."

TERMS AGREED IN SUNCOKE SETTLEMENT: Metallurgical coke producer SunCoke Energy and Cokenergy reached an agreement to resolve alleged Clean Air Act violations related to leaking coke ovens and excessive bypass venting of hot coking gases, the Justice Department said. A consent decree requires estimated annual emissions reductions of 2,075 tons of coke oven emissions and requires coke oven rebuilds, DOJ said. Cokenergy will also spend \$250,000 on a lead abatement project in the East Chicago area. DOJ added, the companies "agreed to enhanced monitoring and testing requirements, including two stack tests to measure lead emissions," and will pay a \$5 million civil penalty. "Today's settlement is one example of how EPA is committed to reducing exposure to lead and other contaminants in communities across the country," Pruitt said on Thursday. "Lead exposure is a serious problem and reducing it is a priority for EPA."

PRUITT AND THE PRESS: E&E News chronicles Pruitt's relationship with the press in a

lengthy story from Thursday on the EPA chief's tour through the country on the Waters of the U.S. rule. Based on roughly thousands of pages of documents obtained through public records requests to multiple states, E&E's Ariel Wittenberg and Kevin Bogardus piece together Pruitt's press strategy. Read it [here](#).

CALIFORNIA CALLING: California Gov. Jerry Brown celebrated the Golden State and rebuked the president's climate agenda Thursday during his final "State of the State" address. The governor "rallied this bulwark of the Democratic Party to push forward on climate change, immigration and high-speed rail, signaling another year of conflict between Washington and the nation's most populous state," POLITICO's David Siders and Carla Marinucci [report](#). "Despite what is widely believed by some of the most powerful people in Washington, the science of climate change is not in doubt," the Democratic governor said Thursday. "All nations agree except one, and that is solely because of one man: our current president." Brown added, "Here in California, we follow a different path."

Brown's agenda, which includes fighting climate change, [putting 5 million zero-emission vehicles on the road by 2030](#) and defending a state gas tax increase, "stands starkly at odds with the White House, and the governor cut at Trump implicitly," David and Carla write, setting the stage for year another of year of Washington fights from the state. It also continues a yearlong trend of feuding with Trump for the coastal state, with tensions heightening already this year. [Earlier this week](#), state Attorney General Xavier Becerra filed a lawsuit challenging the administration's repeal of an Obama-era fracking rule, and on Thursday, the California delegation, including Sens. [Kamala Harris](#) and [Dianne Feinstein](#), [wrote to](#) Interior Secretary Ryan Zinke, requesting Californians be able to comment on the offshore drilling proposal. Read more [here](#).

DINNER WITH TRUMP: The president had dinner in Davos with multinational business leaders Thursday, including Eldar Saetre of Norway's Statoil ASA and Patrick Pouyanne of France's Total SA. Much like his Cabinet meetings, Trump went around the table and had each participant discuss his business. At one point, Pouyanne said his company was investing in renewables, joking to Trump, "and maybe you disagree." Saetre, meanwhile, used his time to congratulate Trump on tax reform. "I think that is really good news, for all of us here, but for oil and gas and our industry."

SOUTH KOREA WANTS SOLAR CONSULTATION: South Korea asked the WTO twice separately this week for a consultation with the U.S. on its recent [solar tariff](#) and [washing machine](#) decisions. Korea argues the U.S. violated several international trade rules in its action, Pro's Adam Behsudi [reports](#). Separate from the WTO's dispute settlement process, the requests kick-start a process under the WTO's safeguards agreement.

WEATHER CHANNEL TAKES STAND ON CLIMATE: The Weather Channel website took a stance on climate change Thursday, posting a banner that blared "THERE IS NO CLIMATE CHANGE DEBATE," and linked to a series of stories showing its effect. The company posted a [statement](#) detailing its "United States of Climate Change" project that will focus on such stories, but will not debate the science of climate change. "We're going to see how individuals, communities and businesses are responding to the changes that are already

happening in America, and how they're preparing for the changes that have yet to occur," the website wrote.

LCV ENDORSES IN ILLINOIS: The LCV Action Fund backed two congressional candidates on Thursday: Brendan Kelly for Illinois' 12th District and Erik Jones in the 13th District. "Brendan Kelly and Erik Jones are exciting new voices for climate action and environmental protection," said LCV Action Fund Senior Vice President of Government Affairs Tiernan Sittenfeld.

MAIL CALL: General president of the United Association, Mark McManus, penned a letter to Trump on Thursday, on the Renewable Fuel Standard and bankruptcy of Philadelphia Energy Solutions. Read the letter [here](#).

MOVER, SHAKER: The Trust for Public Land announced Thursday that Diane Regas will be the organization's new president and CEO. Regas is currently executive director of Environmental Defense Fund.

QUICK HITS

— Trump wanted to know how U.S. stacks up to Russia on science, [E&E News](#).

— FirstEnergy executive: Davis-Besse plant headed for premature closure, [The Blade](#).

— A University of Cincinnati professor wanted to work for Trump's EPA. He ended up demonized — and jobless, [Cincinnati.com](#).

— Trump's solar tariff leaves state renewables targets in limbo, [Bloomberg](#).

— Puerto Rico offers fiscal plan settling debt for pennies on the dollar, [The Washington Post](#).

— Scientists are calling on the American Museum Of Natural History to cut ties with the Mercers, [BuzzFeed](#).

HAPPENING TODAY

1:10 p.m. — The College of Agriculture, Urban Sustainability and Environmental Sciences and the Citizens' Climate Lobby hold the 2018 [Mid-Atlantic Regional Conference](#), 4200 Connecticut Avenue NW

3:00 p.m. — The Society of Environmental Journalists, George Mason University and the Wilson Center hold an [event](#) on "2018 Journalists' Guide to Energy and Environment," 1300 Pennsylvania Ave NW

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World nervously watches Trump's Davos debut [Back](#)

By Louis Nelson | 01/25/2018 11:45 AM EDT

President Donald Trump arrived at the World Economic Forum in Switzerland Thursday a man on a mission: to demonstrate his prowess on the world stage to a mountain town full of political and business leaders skeptical of his administration.

In a pair of bilateral meetings with the prime ministers of Great Britain and Israel, Trump touted his White House's warm ties with each nation, both longtime steadfast U.S. allies. As he entered the forum's hall, Trump declared that he had arrived with a message of "peace and prosperity." He basked in warm praise from Israeli Prime Minister Benjamin Netanyahu and seemingly sought to smooth a reported rift in his relationship with his British counterpart, Theresa May.

That Trump was in attendance at Davos, considered a meeting of international elites where globalism is often championed, seemed strange for a president who campaigned on and has governed with an "America First" agenda that is skeptical of multinational trade agreements and of U.S. participation in international organizations like the United Nations. Trump is the first U.S. president to attend the annual gathering in Switzerland since Bill Clinton in 2000, his final year in office.

"When I decided to come to Davos, I didn't think in terms of elitists or globalists, I thought in terms of lots of people who want to invest lots of money and they're all coming back to the United States. They're coming back to America, and I thought of it much more in those terms," Trump explained in an interview with CNBC. "After I said that I was going, there were massive stories about the elite and the globalists and the planes flying in and everything else. It's not about that. It's about coming to America, investing your money, creating jobs, companies coming in. We're setting records. Every day, we're setting records."

But while Trump's particular style of politics [continues](#) to rattle the international political and economic types who regularly attend Davos, the first year of his presidency seems to have calmed some, at least in the latter group. The U.S. economy has performed well through Trump's first year in office, as have other prominent economies worldwide. Many at Davos predicted the tax cut and reform legislation signed by the president last year will further spur the U.S. economy.

"There's been a lot of warmth, a lot of respect for our country, and a lot of money, billions and billions of dollars is coming into the U.S., and people are very happy with what we've done, not only on the tax bill, but also cutting of regulations, and I think also being a cheerleader for our country," Trump told reporters at a group dinner Thursday evening in Switzerland. "You know, if you're not a cheerleader for your company or for your country, no matter what happens, it's not going to work. And that's what I've been and that's what my whole group has been."

Still, Trump's bombast continues to stir nervousness and the president is not generally highly regarded among those flocking to the Swiss ski town this week. Trump is scheduled to give a speech Friday at the forum, for which Marietje Schaake, a prominent Dutch politician in the European Parliament, offered this prediction: "With low expectations, it will not take much to exceed them," adding that "at the end of the day, while words matter, actions always speak louder than words."

With May, Trump offered the pool of reporters traveling with him at the forum in Davos assurances that the pair continues to share "a really great relationship," that he has "tremendous respect" for his British counterpart and that "the feeling is mutual from the standpoint of liking each other a lot."

Trump said the U.S. and Britain are "joined at the hip" on military issues and told May "there's nothing that would happen to you that we won't be there to fight for you. You know that."

A spokesman for May said the pair discussed the need to cooperate on peacekeeping efforts such as working "to ensure Iran does not develop nuclear weapons."

The leaders, Downing Street said, agreed to continue "to stand side-by-side" in their fight against the Islamic State.

The president's reassurances follow a relatively rocky patch in the U.S.-U.K. "special relationship" that included Trump's abrupt cancellation of a trip to London (placing the blame for that cancellation, incorrectly, on his predecessor, Barack Obama) and his sharing on Twitter of anti-Muslim videos posted by a leader from a British far-right, ultranationalist group. The latter offense earned Trump a rebuke from a May spokesman.

Trump and May directed officials to finalize arrangements for a visit by the U.S. leader to the U.K. sometime this year, May's spokesperson said.

With Netanyahu, the conversation in front of the cameras focused largely on the president's announcement last month that the U.S. would recognize Jerusalem as Israel's capital and begin the process of moving its embassy there. Netanyahu heaped praise on the president for the controversial decision, criticized even by close U.S. allies, telling him that the decision would be "forever etched on the hearts of our people for generations to come."

While Trump's bombastic style, unpredictability and willingness to diverge from the norms of past White House occupants has seemingly injected doubt into U.S. relationships around the globe, the president's stridently pro-Israel positions have strengthened the bond between the two nations, which sunk to a low point during the Obama administration.

Netanyahu in particular praised Trump for the skeptical eye with which he has viewed the landmark nuclear agreement the U.S. helped negotiate with Iran, telling the president and the assembled media that Israel would "back you all the way" should he decide to pull the U.S. from the agreement championed by Obama's White House.

"I've never seen the realistic alliance between the United States, Israel and your other allies in the region as strong, as unified as it is under your leadership," Netanyahu said. "As you finish your first year in office, I want to say that I look forward to continuing our remarkable, tremendous friendship in the years ahead, and I want to express the appreciation of the people of Israel to you. Thank you, Mr. President."

Cristiano Lima contributed to this report.

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Republicans frustrated by lingering agency vacancies [Back](#)

By Anthony Adragna | 01/26/2018 05:01 AM EDT

Republican lawmakers are growing impatient with the Trump administration's delays in nominating candidates for energy-related positions across the federal government, creating a vacancy problem that experts say could lead to missed opportunities to put GOP policies into action.

More than a year after President Donald Trump entered the White House, the administration hasn't picked anyone to run key positions such as the office overseeing EPA's Superfund program, a focal point of Administrator Scott Pruitt's agenda. There's no one formally selected to lead the Bureau of Land Management or National Park Service, key positions in rolling out Interior Secretary Ryan Zinke's public lands plans.

"It has to make it just that much more difficult within the agencies to just be so short-teamed," Senate Energy and Natural Resources Chairwoman [Lisa Murkowski](#) (R-Alaska) told POLITICO.

In total, there are currently no nominees for seven of the 17 slots at Interior requiring Senate confirmation. The figure at EPA stands at six of 13 spots, while 11 of 22 positions at the Energy Department have no nominee. There's also been no movement on vacancies within the White House's Office of Science and Technology Policy, including the top spot, the longest that role has gone without a nominee.

The White House did not respond to a request for comment on whether it planned to nominate officials to the vacancies.

Some Republican lawmakers laid the blame on Democrats for drawing out the Senate confirmation process procedurally, which they say created a nomination backlog that has lessened the pressure on Trump to add more names to the waiting list. Others say lengthy confirmation battles that have forced some nominees to wait over a year for a vote have prompted potential candidates to opt of government service.

But whatever the reason, spots critical to the agendas of Cabinet members remain unfilled.

"I hear some of my colleagues just laying the blame right at the feet of the [Democrats], and, when it comes to slowing things down procedurally on the floor, there's clearly blame there," Murkowski said. "But if we don't even have the names that we can process through the committee to get to the floor, then you can't pass that blame off to the Democrats. There are things that need to happen within the administration."

The lingering vacancies perhaps should not be surprising given Trump's vows in a November [interview](#) with Forbes that he didn't intend to fill out agency staffing. "I'm generally not going to make a lot of the appointments that would normally be — because you don't need them," Trump said, calling some of the positions "totally unnecessary."

To date, only 331 Trump administration nominees have been confirmed by the Senate compared to 468 OK'd by the same point in the Obama administration.

Donald Kettl, a professor with the University of Maryland's School of Public Policy, said that while there are some signs of a slowdown of nominations in the Senate — it's taken Trump nominees an average of 72 days for confirmation compared to 54 days for Obama nominees over the same time period — there's not "a lot of evidence" that difference stems primarily from Democratic intransigence.

"Are the Democrats responsible for some of it? Sure," he said. "Are they primarily responsible for the pace of the nominations? No."

Experts say a slow start by the administration in nominating people, delays in completing paperwork for Congress and a packed Senate calendar that included major pushes on health care and taxes also contributed to a slow pace of confirmations.

"Democrats are not to blame on this one," Paul Light, a professor at New York University's Wagner Graduate School of Public Service, said. "Although they do have somewhat more freedom to ask nominees to answer written responses to questions and are demanding more formal confirmation votes, Republicans simply did not have the nominees to send to the floor when they had the muscle. Timing is everything here. Again, steady wins the prize."

Still, lawmakers say the lengthy confirmation battles are making harder to attract people willing to serve in government.

"It's a vicious cycle because if you can't get the assistant secretary of whatever in, then it's hard to get the BLM director in," Sen. [Dan Sullivan](#) (R-Alaska) said. "I know people who have been nominated already who are getting really frustrated. It's demoralizing. They have real lives. They have bills they got to pay. We need to do better."

Other lawmakers said that while they'd like to see the slots filled eventually, the immediate impacts on agency work would be limited.

"Would I like to see them? Yeah. Does it hamper the ability to move the agenda? No," House Natural Resources Chairman Rob Bishop (R-Utah) said. "Many of the acting directors that they have right now in those areas are people that I know and respect and they're moving in the right direction, so I'm comfortable with them."

Some experts disagree, though, and say relying on acting officials to occupy positions requiring Senate confirmation indefinitely has consequences, since nominees undergo strict scrutiny during the process and must prove their credentials, and acting officials don't have the same political capital to move major initiatives.

"When agencies are unstaffed or lacking qualified leadership, it has an acute, corrosive effect," said William Buzbee, a law professor at Georgetown University. "That kind of effect is felt quite quickly."

Lobbying efforts continue behind the scenes from some lawmakers to get the empty slots filled. Senate Environment and Public Works Chairman John Barrasso (R-Wyo.), for example, said he continues to regularly discuss personnel matters with White House staff.

Some experts say the administration may be intentionally keeping some acting officials in positions since they doubt they could pass congressional muster. They point to Albert Kelly, Pruitt's senior adviser on Superfund issues, who joined the agency just weeks after agreeing to be banned from working in the banking industry.

Cary Coglianese, a law professor at the University of Pennsylvania, said it was "troubling" to see the administration relying so heavily on acting officials since Republicans control the Senate.

"When an administration has a Senate majority of the same party and it's still worrying it can't get its nominees through, then it makes you wonder what kind of quality or what kind of views these nominees might have," he said. "It shouldn't be so surprising that a minority party is going to be employ whatever procedural hurdles or delays they have available to them."

Others blame the continued vacancies squarely on Democratic resistance. Congressional Western Caucus Chairman Paul Gosar (R-Ariz.) said the unfilled roles are "no failing" of Trump officials since nominations continue to actually outpace Senate confirmations.

"Vacancies for which there are no pending nominations might be a concern if Senate Democrats were not slow-walking or opposing every nominee proposed — but they are," Gosar said in a statement. "And while it is obviously preferable that an Administration receive the staffing to which it is entitled, the Trump Administration has been able to make remarkable progress on land, resource and energy issues even in the face of that nomination stonewalling."

For their part, Democrats say they aren't surprised by the lagging nominations, and some see it as part of a broader administration to systematically weaken federal agencies through neglect.

"I think they'll stay vacant for a while," House Natural Resources ranking member Raúl M.

Grijalva (D-Ariz.) told POLITICO. "I almost think there's a deliberateness not to do that — to let it through atrophy just die on the vine."

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POLITICO Pro Q&A: Senate EPW Chairman John Barrasso [Back](#)

By Anthony Adragna | 01/25/2018 04:02 PM EDT

Sen. John Barrasso begins his second year atop the Environment and Public Works Committee, and he says he's committed to moving an infrastructure package that he expects will have "presidential commitment and muscle behind it."

In an interview, Barrasso says he's urged administration officials to press President Donald Trump to "put some meat on the bones" of the infrastructure plan during the State of the Union address, and he wants to set deadlines of two years for federal permit approvals for projects.

And Barrasso is taking part in talks to alter the nation's biofuel program, and if legislation to revamp the Renewable Fuel Standard emerges, EPW would give "serious consideration" to proposals to modernize the program.

The following transcript has been edited for length and clarity.

An infrastructure package is a key priority for 2018. Sen. Jim Inhofe said he was "frustrated" the White House's plan has yet to emerge and Sen. John Thune said the president would have to show real leadership to get something done this year. Do you share their concerns?

At the committee meeting last week we had both Secretary of Transportation [Elaine] Chao, as well as [National Economic Council director] Gary Cohn attending and visiting with us about infrastructure. And this was a bipartisan meeting. We had most of the members — Republicans and Democrats. We're committed — Republicans and Democrats — to getting something done.

It's a big priority for the committee. I think we've had a very successful 2017 with lots of accomplishments. But infrastructure is clearly a main topic to the point that I believe at our retreat next week, we're going to be having a discussion on infrastructure again with the secretary of Transportation.

So you're optimistic about getting something done even though legislating during an election years can be more difficult?

I'm committed to working with the administration and with the Democrats, and certainly with all the members of our committee on both sides of the aisle, to get something done. I think it's

important. We have a need in the community and in the country. There's no question about it.

And part of what we're doing with WRDA right now is infrastructure. Water resource development is infrastructure. But you need to deal with the roads, the highways, the bridges, the dams, all of it out there. So, I'm optimistic. We'll be discussing it at the retreat and I hope the president brings it up in the State of the Union. And I mentioned that to both Director Cohn and Secretary Chao that I think it would be good to have the president put some meat on the bones during the State of the Union address next Tuesday.

Have you ever thought of putting out your own plan since the White House's timeline seems to have slipped?

We've been working on a plan that I've been working on with the Democrats as well. Many of the hearings that we have have been infrastructure-related. The president has frequently talked about upgrading the infrastructure of the country, and I think we need a robust infrastructure bill with presidential commitment and muscle behind it. And I believe we'll get it.

Do you see opportunities in the package that emerges to tweak or revisit provisions of the Clean Air Act, Clean Water Act, Endangered Species Act and National Environmental Policy Act?

So much of what I'm focused on now are the roads and bridges, but clearly you need to be able to get projects done. You need to be able to streamline this whole process so that projects can be both started faster and finished faster, because you want to make sure taxpayers are getting bang for their buck. You need to have things [so] people feel that they're not just being dragged out. It just seems silly when you see some project that could take months to complete but years to permit — people get the fact that that's a sign of Washington not getting its job done.

Things [have to be] approved by a certain period of time — whether that's two years [or] a shorter period of time. And if they can't get the permits done, at what point do you say, "Look, people have made their best faith effort and this government couldn't get permits done?" To me, that says they ought to be approved if the government can't work its way through the process in a short period of time. Most people around the country don't think two years is a short period of time but for government that's setting speed records.

The perennial issue with infrastructure seems to be paying for it, and I would imagine some of the ideas often floated, like a gas tax hike, are probably non-starters for you. Are there other promising ideas you've seen to date?

There's a difference between rural and urban. [Public-private partnerships] can work in urban areas. They're not going to work in rural areas. So you need federal funding and commitment for rural areas, which aren't going to lend themselves to the partnerships between the public and the private areas. You almost need to look at the two separately and in our discussions with the administration, they do seem to have the two tracks for an urban versus a rural approach. And funding in that.

What's it been like working with the Democrats so far in this? Have Ranking Member Tom Carper and his staff been open partners and also looking to get something done?

Senator Carper is actually a very good partner to work with. He was here visiting with me today for a half an hour in my office. I go visit with him and we visit on the floor frequently. We had four dozen hearings last year, advanced a lot of nominations, passed a lot of different legislation of all different kinds.

We have all these discussions about how to more quickly update and modernize the permitting process and also how to pay for things. His model and mine are a little different on the funding, but we know we need to get this done and find a way to do this. The EPW committee, from a public works standpoint, has had a lot of success in the past. It's done a lot of work in a bipartisan way. I think we've worked very closely, both sides of the aisle, to make sure the people who came in to testify — and clearly I had a lot of people from Wyoming to talk about rural issues and rural needs and why they're unique — but I think every member of the committee would say they've felt they've had an opportunity to bring somebody in from their state to make the case about what their specific needs could be whether it's highways, bridges, dams, water, ports, you name it.

Have you been participating in the talks between Sen. John Cornyn and other senators on Renewable Fuel Standard issues? And do you think there's a compromise possible on biofuels that can get through your committee?

I've been part of those discussions, yes.

We need a solution to the problem. The way that the RFS program was put into place, in my opinion, did not visualize where we are today, with a greater amount of fuel efficiency, with the number of electric vehicles. So the system that was designed was one that just viewed greater and greater volumes of gasoline being used. And didn't take into account some of the changes that we've seen with technology.

If a refinery goes bankrupt because of a system that the government put in place after the refinery was built, that's not a system that's worked. So we need to modernize and modernize this to take into account where we are today with the technology and the vehicles and the amount of fuel being consumed.

[Cornyn's] leading the efforts to develop this bipartisan reform bill that all the stakeholders can support and then once that's introduced the committee is going to give it serious consideration.

A number of the West Coast states have blocked coal export facilities from being built. Is there a role at all for the federal government to intervene?

I think it's important to be able to export coal. People around the world want to buy energy from America. The president talks about energy dominance and we need to use the resources that we have in this country. We've gone from energy security to energy independence to energy dominance. And to be able to use energy as the geopolitical weapon that it can be and deal with

how [Russian President Vladimir] Putin uses energy as a weapon, I think we need to make sure that we have opportunities to sell to other countries what we have in the United States in abundance. It's good for our jobs, it's good for the economy. Energy, as a resource, it's called the master resource for a reason because of what it powers. It powers our economy. It powers our jobs. And powers the military. So it's an instrument of power. It's a force multiplier, and I think we should use it as such.

I'd like to see those ports opened up. Many of the workers there want those jobs in those areas but you have this division between the workers — many of whom are union workers — and the environmental extremists who are trying to block them. That's where the loggerheads is and we're trying to get those ports open.

What are your thoughts on being EPW chairman after Year One? Are you enjoying the job so far and how do you balance those responsibilities with your time atop the Senate Republican Policy Committee?

Wyoming [is] such an energy state and, to me, the most beautiful state in the country — and maybe one of the most beautiful places in the world. So what you know is from the standpoint from the people of Wyoming, we have protected our environment. We have great respect for our environment and the best stewards of the land are the people that live on the land. We have a long history of doing it right and we have multiple use of the land in Wyoming. Half of the land in Wyoming is run and owned by the federal government, so we know what it's like to have such a large federal footprint in the state. And we just believe we ought to be able to use our resources and do it in ways that are respectful of the environment as we have done it.

It's an area that to me is a great deal of focus. It's something I've worked on from the day I showed up in the Senate, the first day I took the oath of office. That hasn't changed. I'm just able to have additional opportunity to bring people back from Wyoming to testify on the topics that are in front of the committee. So I think that helps lend voice to the vision and the values that we have in Wyoming.

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EPA drops 'once in, always in' policy from key Clean Air Act requirements [Back](#)

By Alex Guillén | 01/25/2018 06:11 PM EDT

EPA today withdrew a Clinton-era policy that was designed to prevent major emitters like power plants and factories from getting out of tough requirements to limit their toxic air emissions.

In a new [memo](#), EPA air chief Bill Wehrum wrote that the "once in, always in" policy "is contrary to the plain language" of the Clean Air Act. Wehrum revoked a [1995 guidance memo](#) outlining the policy and said EPA would consider new regulations to clarify its interpretation of

the law.

Under the now-revoked guidance, any emitter that qualified as a "major" source of hazardous air pollutants would forever be subject to that tougher standard to comply with MACT rules, even if its emissions dropped low enough to be considered an "area" source subject to fewer or no requirements. Wehrum's memo said the law does not specify that such classifications are permanent.

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WHAT'S NEXT: Wehrum's memo says EPA will "soon publish a Federal Register notice to take comment on adding regulatory text that will reflect EPA's plain language reading of the statute."

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Brown thumps Trump in final State of the State address [Back](#)

By David Siders and Carla Marinucci | 01/25/2018 05:57 PM EDT

SACRAMENTO — In a wide-ranging defense of California — and a rebuke of President Donald Trump and the Republican-held Congress — Gov. Jerry Brown on Thursday rallied this bulwark of the Democratic Party to push forward on climate change, immigration and high-speed rail, signaling another year of conflict between Washington and the nation's most populous state.

Delivering his final State of the State address, Brown cast California as a more enlightened alternative to "the poison in our politics" and to "the abysmal approval ratings given to the U.S. Congress."

He called for the state to complete a massive high-speed rail project reviled by many Republicans in Washington, and to put 5 million zero-emission vehicles on California roads by 2030.

"Despite what is widely believed by some of the most powerful people in Washington, the

science of climate change is not in doubt," the Democratic governor told a joint session of the Legislature here. "All nations agree except one, and that is solely because of one man: our current president."

Brown said, "Here in California, we follow a different path."

Brown and the state's heavy bench of Democratic officeholders have feuded with Trump since the Republican president took office last year. But tensions heightened this month, with the Trump administration threatening to undermine the state's marijuana market, proposing oil drilling off the California coast and vowing to dramatically increase immigration enforcement in the state.

On Wednesday, the state attorney general, Xavier Becerra, filed litigation challenging the Trump administration's repeal of an Obama-era hydraulic fracturing regulation, while Trump took aim at San Francisco and other sanctuary cities that he said are the "best friend of gangs and cartels like MS-13."

While relatively cautious in his criticism of Trump, Brown's agenda — combating climate change, health care, defending a state gas tax increase — stands starkly at odds with the White House, and the governor implicitly cut at Trump.

Recalling headlines that derided California as "ungovernable" and "doomed" when Brown inherited a yawning budget deficit as he took office in 2011, Brown said, "Even today, you will find critics who claim the California dream is dead. But I'm used to that."

Now California enjoys a budget surplus, and Brown pointed to the state's approval of a water bond, a budget reserve and a cap-and-trade extension, among other legislative achievements, as evidence "that some American governments actually can get stuff done."

Heralding crowds that participated in Women's March events this month and activists who champion the cause of undocumented young people, Brown said, "In all this, California was in the forefront, showing the way."

In a reflective address — at nearly 30 minutes, unusually long for Brown — the governor acknowledged Trump's approval of "substantial assistance" in disaster aid after California's devastating wildfires and mudslides.

But Brown excoriated the Republican majority in Washington for its attempt to undo health care legislation on which California relies for billions of dollars in federal aid.

"Thank God for John McCain, Lisa Murkowski and Susan Collins," he said. "Along with the Democrats, they prevailed and protected health care for tens of millions of Americans."

For Brown, a fourth-term governor who abandoned his own presidential ambitions after running three times for the White House, the speech served as a reminder of the accomplishments of his final terms, but also the uncertainty of his legacy as he prepares to leave office in January 2019.

Brown is almost sure to be replaced by a Democrat keeping with his positions on climate change and immigration. But as Brown prepares to exit public life, California's poverty rate remains the highest in the nation when adjusted for the cost of living, and the state's tax system relies heavily on its top earners, a major source of volatility. Brown's two signature infrastructure initiatives — building high-speed rail and a water conveyance system — are also mired in uncertainty, with multibillion price tags and fierce political opposition to both projects.

Earlier this month, California officials said the estimated cost of an initial leg of the project in California's Central Valley had alone climbed \$2.8 billion, throwing into doubt the state's cost estimate for the overall project of about \$64 billion. The project will almost certainly require additional federal money, which proponents acknowledge is unlikely while Republicans control the House.

On Thursday, Brown said, "I make no bones about it. I like trains, and I like high-speed trains even better."

"Yes, it costs a lot of money," he said. "But it's still cheaper and more convenient than expanding airports, which nobody wants to do, and building new freeways."

Brown was flanked on the rostrum by two of the several Democrats who are bidding to succeed him. Many of those candidates, including the front-runner, Lt. Gov. Gavin Newsom, have been more strident than Brown in their rhetoric deriding Trump, suggesting animosity between the state and Washington may only intensify.

After Brown's remarks, Newsom said Brown's speech underscored the challenges ahead for California leaders of the next generation.

"It's a baton to be passed," he said, one that emphasizes "success is not a definition — it's a direction."

Brown, governor before from 1975 to 1983, drew loud applause in the Assembly chambers, and even Republicans praised him for his fiscal moderation. But Republican Assemblywoman Catharine Baker said she was concerned "to see him double down on high-speed rail," while Republican Assembly Leader Brian Dahle said Brown failed to adequately address the rising cost of living in the state.

"Some people are spending 50 percent of their pay on rent," Dahle said. With increasing taxes, Dahle said, "they're raising revenues off the back of people here."

Yet Republicans represent a small minority in the California Legislature and have little influence in state politics. And Brown, with a favorable approval rating and millions of dollars remaining in his campaign war chest, has avoided lame-duck treatment entering his final year. He pledged to "do everything in my power" to defeat an effort to repeal a gas tax increase.

Asked as he left the lectern what his father, the late Gov. Edmund G. "Pat" Brown, would say

about his final speech, Brown said, "Persistence."

Then asked if he would run for office again, Brown — who has said before that he will not run for president in 2020 — offered a familiar quip.

"You never know," the 79-year-old said. "Never say never."

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California to sue over federal fracking rule repeal [Back](#)

By Alex Guillén | 01/24/2018 12:00 PM EDT

California will sue the Trump administration for repealing the Obama-era fracking rule, California Attorney General Xavier Becerra announced today.

The repeal of the 2015 Bureau of Land Management regulation was [formalized](#) late last month.

"They didn't follow the law, they didn't let the law or the facts change their way in their zeal to repeal what was a commonsense measure," Becerra told reporters on a conference call. California's lawsuit will argue Interior violated the Administrative Procedure Act by failing to justify the repeal, and Becerra said the state also will pursue NEPA violations over the environmental impacts of fracking.

"I think there is plenty of reason to doubt that the fracking repeal engaged in by the administration will withstand scrutiny in a court," Becerra added.

The Obama fracking rule was struck down in 2016 by a federal judge in Wyoming who said Interior did not have the authority to regulate the practice at all. That issue was on appeal to the 10th Circuit, but that case is expected to be dismissed as moot and the lower court's ruling vacated now that the rule has been repealed.

Becerra sidestepped questions about how California could win when the underlying rule was itself in legal jeopardy, saying the lawsuit over the repeal "is going to stand on its own."

WHAT'S NEXT: California will file the lawsuit over the fracking rule's repeal.

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South Korea asks for WTO consultation with U.S. over washing machine, solar import curbs [Back](#)

By Adam Behsudi | 01/25/2018 10:48 AM EDT

South Korea has filed two separate requests at the WTO for consultations with the United States on recent restrictions on imports of [washing machines](#) and [solar products](#), arguing that the actions violate several international trade rules.

The requests made on Wednesday begins a process under the WTO's safeguards agreement. The requests are different from the WTO's dispute settlement process but could still lead to South Korea retaliating against the U.S. actions if the two countries can't settle their differences in 30 days.

President Donald Trump this week [approved](#) import restrictions on washing machines and solar products under Section 201 of the Trade Agreement of 1974.

Countries are allowed a certain amount of flexibility to impose safeguards under WTO rules, but South Korea argues that the U.S. action breaches a number of provisions under the safeguards agreement and the General Agreement on Tariffs and Trade.

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To: Harlow, David[harlow.david@epa.gov]
From: POLITICO Pro Energy Whiteboard
Sent: Thur 1/25/2018 11:12:55 PM
Subject: EPA drops 'once in, always in' policy from key Clean Air Act requirements

By Alex Guillén

01/25/2018 06:11 PM EDT

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WHAT'S NEXT: Wehrum's memo says EPA will "soon publish a Federal Register notice to take comment on adding regulatory text that will reflect EPA's plain language reading of the statute."

To view online:

<https://www.politicopro.com/energy/whiteboard/2018/01/epa-drops-once-in-always-in-policy-from-key-clean-air-act-requirements-480570>

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To: Harlow, David[harlow.david@epa.gov]
From: EPA Press Office
Sent: Thur 1/25/2018 9:54:51 PM
Subject: Reducing Regulatory Burdens: EPA withdraws “once-in always-in” policy for major sources under Clean Air Act

EPA issued a guidance memorandum withdrawing the “once-in always-in” policy for the classification of major sources of hazardous air pollutants under section 112 of the Clean Air Act.

Reducing Regulatory Burdens: EPA withdraws “once-in always-in” policy for major sources under Clean Air Act

WASHINGTON (January 25, 2018) – Today, the U.S. Environmental Protection Agency (EPA) issued a guidance memorandum withdrawing the “once-in always-in” policy for the classification of major sources of hazardous air pollutants under section 112 of the Clean Air Act. With the new guidance, sources of hazardous air pollutants previously classified as “major sources” may be reclassified as “area” sources when the facility limits its potential to emit below major source thresholds.

“This guidance is based on a plain language reading of the statute that is in line with EPA’s guidance for other provisions of the Clean Air Act,” **said Bill Wehrum, assistant administrator of EPA’s Office of Air and Radiation.** “It will reduce regulatory burden for industries and the states, while continuing to ensure stringent and effective controls on hazardous air pollutants.”

Today’s memo is another step by which EPA is reducing unnecessary regulatory burdens that deterred innovative efforts to improve the environment. The “once in always in” policy has been a longstanding disincentive for sources to implement voluntary pollution abatement and prevention efforts, or to pursue technological innovations that would reduce hazardous air pollution emissions. States, state organizations and industries have frequently requested rescission of this policy, which was one of the most commonly cited requests in response to President Trump’s Executive Order 13777. Today’s EPA action is an important step in furtherance of the president’s regulatory reform agenda while providing a meaningful incentive for investment in HAP reduction activities and technologies.

The Clean Air Act defines a “major source” as a one that emits, or has the potential to emit, 10 tons per year of any hazardous air pollutant, or 25 tons per year or more of any combination of hazardous air pollutants. Sources with emissions below this threshold are classified as “area sources.” Different control standards apply to the source depending on whether or not it is classified as a “major source” or an “area source.”

In a 1995 memo, EPA established a “once-in always-in” policy that determined that any facility subject to major source standards would always remain subject to those standards, even if production processes changed or controls were implemented that eliminated or permanently reduced that facility’s potential to emit hazardous air pollutants.

Today’s memo finds that EPA had no statutory authority under the Clean Air Act to place a time limit on when a facility may be determined to be an area source, and that a plain language reading of the Act must allow facilities to be reclassified as area sources once their potential to emit hazardous air pollutants falls below the levels that define major sources.

EPA anticipates that it will soon publish a Federal Register notice to take comment on adding regulatory text that will reflect EPA's plain language reading of the statute as discussed in this memorandum.

More information is available online at <https://www.epa.gov/stationary-sources-air-pollution/national-emission-standards-hazardous-air-pollutants-neshap-9>

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The Clean Air Act defines a “major source” as a one that emits, or has the potential to emit, 10 tons per year of any hazardous air pollutant, or 25 tons per year or more of any combination of hazardous air pollutants. Sources with emissions below this threshold are classified as “area sources.” Different control standards apply to the source depending on whether or not it is classified as a “major source” or an “area source.”

In a 1995 memo, EPA established a “once-in always-in” policy that determined that any facility subject to major source standards would always remain subject to those standards, even if production processes changed or controls were implemented that eliminated or permanently reduced that facility’s potential to emit hazardous air pollutants.

Today’s memo finds that EPA had no statutory authority under the Clean Air Act to place a time limit on when a facility may be determined to be an area source, and that a plain language reading of the Act must allow facilities to be reclassified as area sources once their potential to emit hazardous air pollutants falls below the levels that define major sources.

EPA anticipates that it will soon publish a Federal Register notice to take comment on adding regulatory text that will reflect EPA's plain language reading of the statute as discussed in this memorandum.

More information is available online at <https://www.epa.gov/stationary-sources-air-pollution/national-emission-standards-hazardous-air-pollutants-neshap-9>

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To: Wehrum, Bill[Wehrum.Bill@epa.gov]
From: POLITICO Pro Energy Whiteboard
Sent: Tue 1/30/2018 4:04:56 PM
Subject: Pruitt: 'Once in, always in' rule change was policy decision

By Annie Snider

01/30/2018 11:02 AM EDT

EPA Administrator Scott Pruitt said this morning that last week's decision to end Clinton-era "once in, always in" Clean Air Act requirements was not made by the agency's air experts.

"That was a decision that was made outside of the program office of air. It was a policy office decision," Pruitt told the Senate Environment and Public Works Committee.

The comment came in response to a question from Sen. [Tom Carper](#) of Delaware, the top Democrat on the committee, about whether the agency conducted an analysis of the potential health effects of the policy change.

"I find it incredible that EPA did this seemingly without knowing or caring about potential health effects of its action," Carper said.

The "once in always in," codified in now revoked 1995 policy guidance, was designed to prevent major emitters like power plants and factories from getting out of tough requirements to limit their toxic air emissions. It required that any emitter that qualified as a "major" source of hazardous air pollutants would permanently be subject to that tougher standard to comply with MACT rules, even if its emissions dropped low enough to be considered an "area" source subject to fewer or no requirements.

To view online:

<https://www.politicopro.com/energy/whiteboard/2018/01/pruitt-once-in-always-in-rule-change-was-policy-decision-503744>

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To: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]; Wehrum, Bill[Wehrum.Bill@epa.gov]; Woods, Clint[woods.clint@epa.gov]
Cc: Atkinson, Emily[Atkinson.Emily@epa.gov]; Loving, Shanita[Loving.Shanita@epa.gov]; Wagner, Kenneth[wagner.kenneth@epa.gov]
From: Miles Keogh
Sent: Fri 1/26/2018 6:00:37 PM
Subject: Meeting with NACAA next week

Dear Bill, Mandy, and Clint,

I hope things are going well – I’m writing to give you guys some final details on our upcoming board meeting. I’m really excited to help connect you with the NACAA leadership. We’ve asked y’all to participate on January 31 between 1:30 pm and 3:30 pm, here at the Hall of States, 444 North Capitol St NW. We’ll have someone downstairs to help you get in through security and make sure you get to the meeting room on the third floor (and if your logistics team wants to reach me, I’ll have my phone Ex. 6 - Personal Privacy forwarded to my cell.) It’ll be a closed session with about 30 state and local air agency heads, plus the NACAA staff.

As for substance, Bill, I’m told you have a pretty good overview of OAR’s direction and priorities, building on the lines of what you talked about at CAAAC but updated to reflect stuff since. I wonder if you’d mind starting us out with that? Mandy, I wanted to ask if you could talk about the same stuff from the perspective of what’s in your hopper, especially inasmuch as you have insights into the yearlong conversation that y’all have had about what cooperative federalism actually means, in practice. In total I think we’re looking for about an hour or 75minutes of us listening to EPA, and the hour-ish balance as q&a. I’ve been asked to have a sort of ordered Q&A which Bart Sponseller from Wisconsin & Sam Rubens from Akron OH will moderate. Clint, if EPA sees there are things you’re the right guy to touch on, of course it’s very welcome. You may be able to talk about implementation & budgets and the links to the strategic plan, or may not, but it’s all welcome. I also know you may be suddenly unavailable!

Friends, I always come to the table with a full plate of goals, and I’ll be forthright about them – my folks are eager to get work done with EPA and to really walk the talk on cooperative federalism. In as much as you guys can frame your remarks around what they’re interested in, it’s that. What’s the formal and informal institutional infrastructure that connects the local and state implementers with the policies you’re making? How can that partnership be made much more effective, and kick in at a much earlier point in the process? How to we open up communications so we’re a constructive part of the policymaking process instead of reacting to it?

On a substantive basis, we'll have structured questions about the NAAQS, permit streamlining, about the CPP ANPRM, vehicle standards (especially MTE, gliders, and locomotives), "once in always in", international transport, enforcement issues, and fumigation. I know that's a lot of ground and not super specific, but I'm still corralling up the members' ideas. I thought I'd give you as much heads-up as possible.

If you have questions or suggestions, please don't hesitate. It was good to see you this week in Texas, Clint, thanks for coming out and ably representing EPA with the state and local agencies.

My best, Miles

Miles Keogh

NACAA

(202) 624-5981

@WeAre4CleanAir

To: Wehrum, Bill[Wehrum.Bill@epa.gov]
From: POLITICO Pro Energy
Sent: Fri 1/26/2018 10:44:33 AM
Subject: Morning Energy: Trump takes the stage — Plenty of room at the White House inn — One-on-one with Barrasso

By Kelsey Tamborrino | 01/26/2018 05:42 AM EDT

With help from Eric Wolff

TRUMP TAKES THE STAGE: President Donald Trump is set to speak this morning from Davos, Switzerland, where he'll deliver a simple message to world leaders: "A prosperous America benefits the world, and fair economic competition is essential to that prosperity," the [White House said](#). Trump prepared for his speech Thursday by meeting with longtime U.S. allies: The prime ministers of Great Britain and Israel, and he declared that he had arrived with a message of "peace and prosperity." More on that [here](#).

"When I decided to come to Davos, I didn't think in terms of elitists or globalists, I thought in terms of lots of people who want to invest lots of money and they're all coming back to the United States. They're coming back to America, and I thought of it much more in those terms," Trump explained in an interview with CNBC. "After I said that I was going, there were massive stories about the elite and the globalists and the planes flying in and everything else. It's not about that. It's about coming to America, investing your money, creating jobs, companies coming in. We're setting records. Every day, we're setting records."

Already "energy dominance" remarks emerged this week from Energy Secretary Rick Perry, but watch for Trump to tout trade policy in his address to the World Economic Forum, including his brand new tariffs on solar equipment. The White House outlined that the president will describe how "America First" fits into the forum's theme of "a shared future in a fractured world." On trade, Trump will likely discuss the administration's support of trade that is fair and reciprocal to the U.S. "The global economy cannot flourish unless all countries follow the rules and are held responsible when they don't," the White House said. The president is also looking to "forge closer ties" with allies, including French President Emmanuel Macron and Canadian Prime Minister Justin Trudeau — who have bumped heads with Trump on trade and climate policies in the past. Watch it [here](#).

HAPPY FRIDAY! I'm your host Kelsey Tamborrino. Many of you were very close, but no one guessed that in 1975, the Senate adopted a rule requiring most of its committees to work in public. That same year, the Senate approved open conference committee sessions. For today: How many senators attended the world premiere of "Mr. Smith Goes to Washington" held at Constitution Hall? Send your tips, energy gossip and comments to ktamborrino@politico.com, or follow us on Twitter [@kelseyam](#), [@Morning_Energy](#) and [@POLITICOPro](#).

PLENTY OF ROOM AT THE WHITE HOUSE INN: Republican lawmakers are increasingly concerned that the Trump administration has yet to fill several energy-related vacancies across the federal government. A year out from Trump's inauguration, still no name has been selected for key positions, including overseeing EPA's Superfund program or to lead

the Bureau of Land Management or National Park Service, Pro's Anthony Adragna reports.

Let's break this down: Trump has yet to nominate 244 people out of the 635 key positions requiring Senate confirmation, according to a [tracker](#) from The Washington Post and Partnership for Public Service. Of those, there are no nominees for seven of the 17 slots at Interior requiring Senate confirmation, Anthony reports. At EPA, it's six of 13 spots, and 11 of 22 positions at the Energy Department. There's also been no movement on vacancies within the White House's Office of Science and Technology Policy, including the top spot, the longest that role has gone without a nominee.

Why, you ask? Some Republicans blame Democrats for drawing out the confirmation process, which others say has driven other potential candidates to opt out of government service altogether. But Trump himself vowed in an [interview](#) with Forbes in November that he didn't intend to fill out agency staffing. "I'm generally not going to make a lot of the appointments that would normally be — because you don't need them," Trump said.

Still, the vacancies are cause for frustration for many: "It has to make it just that much more difficult within the agencies to just be so short-teamed," Senate Energy Chairman [Lisa Murkowski](#) said. "I know people who have been nominated already who are getting really frustrated. It's demoralizing," Sen. [Dan Sullivan](#) said. "They have real lives. They have bills they got to pay. We need to do better." Read the story [here](#).

ONE-ON-ONE WITH BARRASSO: What's Year 2 atop Senate EPW mean for Wyoming's [John Barrasso](#)? In an interview with Anthony, Barrasso echoes the White House's focus on infrastructure, praises his Democratic cohort [Tom Carper](#) and discusses where exactly he falls in ongoing talks on the Renewable Fuel Standard. **Some highlights from [the exclusive interview](#):**

On infrastructure: "[P]art of what we're doing with WRDA right now is infrastructure. Water resource development is infrastructure. But you need to deal with the roads, the highways, the bridges, the dams, all of it out there. So, I'm optimistic. We'll be discussing it at the retreat and I hope the president brings it up in the State of the Union. And I mentioned that to both [National Economic Council] Director [Gary] Cohn and [Transportation] Secretary [Elaine] Chao that I think it would be good to have the president put some meat on the bones during the State of the Union address next Tuesday."

On paying for it: "There's a difference between rural and urban. Public-private partnerships] can work in urban areas. They're not going to work in rural areas."

On Renewable Fuel Standard talks: "If a refinery goes bankrupt because of a system that the government put in place after the refinery was built, that's not a system that's worked. So we need to modernize and modernize this to take into account where we are today with the technology and the vehicles and the amount of fuel being consumed. [Sen. [John Cornyn](#)'s] leading the efforts to develop this bipartisan reform bill that all the stakeholders can support and then once that's introduced the committee is going to give it serious consideration."

ONCE-IN POLICY NO MORE: EPA air chief Bill Wehrum withdrew Clinton-era guidance

Thursday that was designed to prevent major emitters from getting out of strict requirements to limit their toxic air emissions. "This guidance is based on a plain language reading of the statute that is in line with EPA's guidance for other provisions of the Clean Air Act," Wehrum said in a [statement](#). "It will reduce regulatory burden for industries and the states, while continuing to ensure stringent and effective controls on hazardous air pollutants." In a memo, EPA revoked the 1995 so-called once-in always-in policy and said it would consider new regulations to clarify its interpretation of the law, Pro's Alex Guillén [reports](#). Under the previous policy, any emitter that qualified as a "major" source of hazardous air pollutants, like power plants and factories, would forever be subject to that tougher standard to comply with MACT rules, even if its emissions dropped low enough to be considered an "area" source subject to fewer or no requirements, Alex writes. Read the memo [here](#).

Barrasso and Sen. Shelley Moore Capito previously asked EPA Administrator Scott Pruitt to withdraw the policy earlier this month, they said on Thursday, cheering the move. "Withdrawal of this policy means manufacturers, oil and gas operations, and other types of industrial facilities will have greater incentive to reduce emissions," Barrasso said in a statement. "Now these companies can help protect the environment without wasting time and money on unnecessary red tape."

Not so fast: [Ed Markey](#) said the move "could be the worst environmental sin yet from the Trump administration." Greens were also quick to call out the decision; The League of Conservation Voters's Sara Chieffo called it a "gutting" of public health protections.

BIODIESEL PRODUCERS CREDIT STILL IN DISCUSSION: The biodiesel producers' credit supported by Sen. [Chuck Grassley](#) and some Midwestern senators still has life. [Orrin Hatch](#)'s tax extenders bill revives the credit for blenders of biodiesel, but the Finance committee members are still considering moving it to a producers credit, according to Derek Theurer, an aide to [Bill Cassidy](#) who was only speaking at a Jones Day tax conference Thursday. "There's members on the Senate side that have views both ways. Some that would like to move to producers' credits, others that are concerned about impact on consumers, the price of fuel," he said. "That's the kind of competing interests being weighed and members are continuing to discuss it."

TERMS AGREED IN SUNCOKE SETTLEMENT: Metallurgical coke producer SunCoke Energy and Cokenergy reached an agreement to resolve alleged Clean Air Act violations related to leaking coke ovens and excessive bypass venting of hot coking gases, the Justice Department said. A consent decree requires estimated annual emissions reductions of 2,075 tons of coke oven emissions and requires coke oven rebuilds, DOJ said. Cokenergy will also spend \$250,000 on a lead abatement project in the East Chicago area. DOJ added, the companies "agreed to enhanced monitoring and testing requirements, including two stack tests to measure lead emissions," and will pay a \$5 million civil penalty. "Today's settlement is one example of how EPA is committed to reducing exposure to lead and other contaminants in communities across the country," Pruitt said on Thursday. "Lead exposure is a serious problem and reducing it is a priority for EPA."

PRUITT AND THE PRESS: E&E News chronicles Pruitt's relationship with the press in a

lengthy story from Thursday on the EPA chief's tour through the country on the Waters of the U.S. rule. Based on roughly thousands of pages of documents obtained through public records requests to multiple states, E&E's Ariel Wittenberg and Kevin Bogardus piece together Pruitt's press strategy. Read it [here](#).

CALIFORNIA CALLING: California Gov. Jerry Brown celebrated the Golden State and rebuked the president's climate agenda Thursday during his final "State of the State" address. The governor "rallied this bulwark of the Democratic Party to push forward on climate change, immigration and high-speed rail, signaling another year of conflict between Washington and the nation's most populous state," POLITICO's David Siders and Carla Marinucci [report](#). "Despite what is widely believed by some of the most powerful people in Washington, the science of climate change is not in doubt," the Democratic governor said Thursday. "All nations agree except one, and that is solely because of one man: our current president." Brown added, "Here in California, we follow a different path."

Brown's agenda, which includes fighting climate change, [putting 5 million zero-emission vehicles on the road by 2030](#) and defending a state gas tax increase, "stands starkly at odds with the White House, and the governor cut at Trump implicitly," David and Carla write, setting the stage for year another of year of Washington fights from the state. It also continues a yearlong trend of feuding with Trump for the coastal state, with tensions heightening already this year. [Earlier this week](#), state Attorney General Xavier Becerra filed a lawsuit challenging the administration's repeal of an Obama-era fracking rule, and on Thursday, the California delegation, including Sens. [Kamala Harris](#) and [Dianne Feinstein](#), [wrote to](#) Interior Secretary Ryan Zinke, requesting Californians be able to comment on the offshore drilling proposal. Read more [here](#).

DINNER WITH TRUMP: The president had dinner in Davos with multinational business leaders Thursday, including Eldar Saetre of Norway's Statoil ASA and Patrick Pouyanne of France's Total SA. Much like his Cabinet meetings, Trump went around the table and had each participant discuss his business. At one point, Pouyanne said his company was investing in renewables, joking to Trump, "and maybe you disagree." Saetre, meanwhile, used his time to congratulate Trump on tax reform. "I think that is really good news, for all of us here, but for oil and gas and our industry."

SOUTH KOREA WANTS SOLAR CONSULTATION: South Korea asked the WTO twice separately this week for a consultation with the U.S. on its recent [solar tariff](#) and [washing machine](#) decisions. Korea argues the U.S. violated several international trade rules in its action, Pro's Adam Behsudi [reports](#). Separate from the WTO's dispute settlement process, the requests kick-start a process under the WTO's safeguards agreement.

WEATHER CHANNEL TAKES STAND ON CLIMATE: The Weather Channel website took a stance on climate change Thursday, posting a banner that blared "THERE IS NO CLIMATE CHANGE DEBATE," and linked to a series of stories showing its effect. The company posted a [statement](#) detailing its "United States of Climate Change" project that will focus on such stories, but will not debate the science of climate change. "We're going to see how individuals, communities and businesses are responding to the changes that are already

happening in America, and how they're preparing for the changes that have yet to occur," the website wrote.

LCV ENDORSES IN ILLINOIS: The LCV Action Fund backed two congressional candidates on Thursday: Brendan Kelly for Illinois' 12th District and Erik Jones in the 13th District. "Brendan Kelly and Erik Jones are exciting new voices for climate action and environmental protection," said LCV Action Fund Senior Vice President of Government Affairs Tiernan Sittenfeld.

MAIL CALL: General president of the United Association, Mark McManus, penned a letter to Trump on Thursday, on the Renewable Fuel Standard and bankruptcy of Philadelphia Energy Solutions. Read the letter [here](#).

MOVER, SHAKER: The Trust for Public Land announced Thursday that Diane Regas will be the organization's new president and CEO. Regas is currently executive director of Environmental Defense Fund.

QUICK HITS

— Trump wanted to know how U.S. stacks up to Russia on science, [E&E News](#).

— FirstEnergy executive: Davis-Besse plant headed for premature closure, [The Blade](#).

— A University of Cincinnati professor wanted to work for Trump's EPA. He ended up demonized — and jobless, [Cincinnati.com](#).

— Trump's solar tariff leaves state renewables targets in limbo, [Bloomberg](#).

— Puerto Rico offers fiscal plan settling debt for pennies on the dollar, [The Washington Post](#).

— Scientists are calling on the American Museum Of Natural History to cut ties with the Mercers, [BuzzFeed](#).

HAPPENING TODAY

1:10 p.m. — The College of Agriculture, Urban Sustainability and Environmental Sciences and the Citizens' Climate Lobby hold the 2018 [Mid-Atlantic Regional Conference](#), 4200 Connecticut Avenue NW

3:00 p.m. — The Society of Environmental Journalists, George Mason University and the Wilson Center hold an [event](#) on "2018 Journalists' Guide to Energy and Environment," 1300 Pennsylvania Ave NW

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World nervously watches Trump's Davos debut [Back](#)

By Louis Nelson | 01/25/2018 11:45 AM EDT

President Donald Trump arrived at the World Economic Forum in Switzerland Thursday a man on a mission: to demonstrate his prowess on the world stage to a mountain town full of political and business leaders skeptical of his administration.

In a pair of bilateral meetings with the prime ministers of Great Britain and Israel, Trump touted his White House's warm ties with each nation, both longtime steadfast U.S. allies. As he entered the forum's hall, Trump declared that he had arrived with a message of "peace and prosperity." He basked in warm praise from Israeli Prime Minister Benjamin Netanyahu and seemingly sought to smooth a reported rift in his relationship with his British counterpart, Theresa May.

That Trump was in attendance at Davos, considered a meeting of international elites where globalism is often championed, seemed strange for a president who campaigned on and has governed with an "America First" agenda that is skeptical of multinational trade agreements and of U.S. participation in international organizations like the United Nations. Trump is the first U.S. president to attend the annual gathering in Switzerland since Bill Clinton in 2000, his final year in office.

"When I decided to come to Davos, I didn't think in terms of elitists or globalists, I thought in terms of lots of people who want to invest lots of money and they're all coming back to the United States. They're coming back to America, and I thought of it much more in those terms," Trump explained in an interview with CNBC. "After I said that I was going, there were massive stories about the elite and the globalists and the planes flying in and everything else. It's not about that. It's about coming to America, investing your money, creating jobs, companies coming in. We're setting records. Every day, we're setting records."

But while Trump's particular style of politics [continues](#) to rattle the international political and economic types who regularly attend Davos, the first year of his presidency seems to have calmed some, at least in the latter group. The U.S. economy has performed well through Trump's first year in office, as have other prominent economies worldwide. Many at Davos predicted the tax cut and reform legislation signed by the president last year will further spur the U.S. economy.

"There's been a lot of warmth, a lot of respect for our country, and a lot of money, billions and billions of dollars is coming into the U.S., and people are very happy with what we've done, not only on the tax bill, but also cutting of regulations, and I think also being a cheerleader for our country," Trump told reporters at a group dinner Thursday evening in Switzerland. "You know, if you're not a cheerleader for your company or for your country, no matter what happens, it's not going to work. And that's what I've been and that's what my whole group has been."

Still, Trump's bombast continues to stir nervousness and the president is not generally highly regarded among those flocking to the Swiss ski town this week. Trump is scheduled to give a speech Friday at the forum, for which Marietje Schaake, a prominent Dutch politician in the European Parliament, offered this prediction: "With low expectations, it will not take much to exceed them," adding that "at the end of the day, while words matter, actions always speak louder than words."

With May, Trump offered the pool of reporters traveling with him at the forum in Davos assurances that the pair continues to share "a really great relationship," that he has "tremendous respect" for his British counterpart and that "the feeling is mutual from the standpoint of liking each other a lot."

Trump said the U.S. and Britain are "joined at the hip" on military issues and told May "there's nothing that would happen to you that we won't be there to fight for you. You know that."

A spokesman for May said the pair discussed the need to cooperate on peacekeeping efforts such as working "to ensure Iran does not develop nuclear weapons."

The leaders, Downing Street said, agreed to continue "to stand side-by-side" in their fight against the Islamic State.

The president's reassurances follow a relatively rocky patch in the U.S.-U.K. "special relationship" that included Trump's abrupt cancellation of a trip to London (placing the blame for that cancellation, incorrectly, on his predecessor, Barack Obama) and his sharing on Twitter of anti-Muslim videos posted by a leader from a British far-right, ultranationalist group. The latter offense earned Trump a rebuke from a May spokesman.

Trump and May directed officials to finalize arrangements for a visit by the U.S. leader to the U.K. sometime this year, May's spokesperson said.

With Netanyahu, the conversation in front of the cameras focused largely on the president's announcement last month that the U.S. would recognize Jerusalem as Israel's capital and begin the process of moving its embassy there. Netanyahu heaped praise on the president for the controversial decision, criticized even by close U.S. allies, telling him that the decision would be "forever etched on the hearts of our people for generations to come."

While Trump's bombastic style, unpredictability and willingness to diverge from the norms of past White House occupants has seemingly injected doubt into U.S. relationships around the globe, the president's stridently pro-Israel positions have strengthened the bond between the two nations, which sunk to a low point during the Obama administration.

Netanyahu in particular praised Trump for the skeptical eye with which he has viewed the landmark nuclear agreement the U.S. helped negotiate with Iran, telling the president and the assembled media that Israel would "back you all the way" should he decide to pull the U.S. from the agreement championed by Obama's White House.

"I've never seen the realistic alliance between the United States, Israel and your other allies in the region as strong, as unified as it is under your leadership," Netanyahu said. "As you finish your first year in office, I want to say that I look forward to continuing our remarkable, tremendous friendship in the years ahead, and I want to express the appreciation of the people of Israel to you. Thank you, Mr. President."

Cristiano Lima contributed to this report.

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Republicans frustrated by lingering agency vacancies [Back](#)

By Anthony Adragna | 01/26/2018 05:01 AM EDT

Republican lawmakers are growing impatient with the Trump administration's delays in nominating candidates for energy-related positions across the federal government, creating a vacancy problem that experts say could lead to missed opportunities to put GOP policies into action.

More than a year after President Donald Trump entered the White House, the administration hasn't picked anyone to run key positions such as the office overseeing EPA's Superfund program, a focal point of Administrator Scott Pruitt's agenda. There's no one formally selected to lead the Bureau of Land Management or National Park Service, key positions in rolling out Interior Secretary Ryan Zinke's public lands plans.

"It has to make it just that much more difficult within the agencies to just be so short-teamed," Senate Energy and Natural Resources Chairwoman [Lisa Murkowski](#) (R-Alaska) told POLITICO.

In total, there are currently no nominees for seven of the 17 slots at Interior requiring Senate confirmation. The figure at EPA stands at six of 13 spots, while 11 of 22 positions at the Energy Department have no nominee. There's also been no movement on vacancies within the White House's Office of Science and Technology Policy, including the top spot, the longest that role has gone without a nominee.

The White House did not respond to a request for comment on whether it planned to nominate officials to the vacancies.

Some Republican lawmakers laid the blame on Democrats for drawing out the Senate confirmation process procedurally, which they say created a nomination backlog that has lessened the pressure on Trump to add more names to the waiting list. Others say lengthy confirmation battles that have forced some nominees to wait over a year for a vote have prompted potential candidates to opt of government service.

But whatever the reason, spots critical to the agendas of Cabinet members remain unfilled.

"I hear some of my colleagues just laying the blame right at the feet of the [Democrats], and, when it comes to slowing things down procedurally on the floor, there's clearly blame there," Murkowski said. "But if we don't even have the names that we can process through the committee to get to the floor, then you can't pass that blame off to the Democrats. There are things that need to happen within the administration."

The lingering vacancies perhaps should not be surprising given Trump's vows in a November [interview](#) with Forbes that he didn't intend to fill out agency staffing. "I'm generally not going to make a lot of the appointments that would normally be — because you don't need them," Trump said, calling some of the positions "totally unnecessary."

To date, only 331 Trump administration nominees have been confirmed by the Senate compared to 468 OK'd by the same point in the Obama administration.

Donald Kettl, a professor with the University of Maryland's School of Public Policy, said that while there are some signs of a slowdown of nominations in the Senate — it's taken Trump nominees an average of 72 days for confirmation compared to 54 days for Obama nominees over the same time period — there's not "a lot of evidence" that difference stems primarily from Democratic intransigence.

"Are the Democrats responsible for some of it? Sure," he said. "Are they primarily responsible for the pace of the nominations? No."

Experts say a slow start by the administration in nominating people, delays in completing paperwork for Congress and a packed Senate calendar that included major pushes on health care and taxes also contributed to a slow pace of confirmations.

"Democrats are not to blame on this one," Paul Light, a professor at New York University's Wagner Graduate School of Public Service, said. "Although they do have somewhat more freedom to ask nominees to answer written responses to questions and are demanding more formal confirmation votes, Republicans simply did not have the nominees to send to the floor when they had the muscle. Timing is everything here. Again, steady wins the prize."

Still, lawmakers say the lengthy confirmation battles are making harder to attract people willing to serve in government.

"It's a vicious cycle because if you can't get the assistant secretary of whatever in, then it's hard to get the BLM director in," Sen. [Dan Sullivan](#) (R-Alaska) said. "I know people who have been nominated already who are getting really frustrated. It's demoralizing. They have real lives. They have bills they got to pay. We need to do better."

Other lawmakers said that while they'd like to see the slots filled eventually, the immediate impacts on agency work would be limited.

"Would I like to see them? Yeah. Does it hamper the ability to move the agenda? No," House Natural Resources Chairman [Rob Bishop](#) (R-Utah) said. "Many of the acting directors that they have right now in those areas are people that I know and respect and they're moving in the right direction, so I'm comfortable with them."

Some experts disagree, though, and say relying on acting officials to occupy positions requiring Senate confirmation indefinitely has consequences, since nominees undergo strict scrutiny during the process and must prove their credentials, and acting officials don't have the same political capital to move major initiatives.

"When agencies are unstaffed or lacking qualified leadership, it has an acute, corrosive effect," said William Buzbee, a law professor at Georgetown University. "That kind of effect is felt quite quickly."

Lobbying efforts continue behind the scenes from some lawmakers to get the empty slots filled. Senate Environment and Public Works Chairman [John Barrasso](#) (R-Wyo.), for example, said he continues to regularly discuss personnel matters with White House staff.

Some experts say the administration may be intentionally keeping some acting officials in positions since they doubt they could pass congressional muster. They point to Albert Kelly, Pruitt's senior adviser on Superfund issues, who joined the agency just weeks after agreeing to be banned from working in the banking industry.

Cary Coglianese, a law professor at the University of Pennsylvania, said it was "troubling" to see the administration relying so heavily on acting officials since Republicans control the Senate.

"When an administration has a Senate majority of the same party and it's still worrying it can't get its nominees through, then it makes you wonder what kind of quality or what kind of views these nominees might have," he said. "It shouldn't be so surprising that a minority party is going to be employ whatever procedural hurdles or delays they have available to them."

Others blame the continued vacancies squarely on Democratic resistance. Congressional Western Caucus Chairman [Paul Gosar](#) (R-Ariz.) said the unfilled roles are "no failing" of Trump officials since nominations continue to actually outpace Senate confirmations.

"Vacancies for which there are no pending nominations might be a concern if Senate Democrats were not slow-walking or opposing every nominee proposed — but they are," Gosar said in a statement. "And while it is obviously preferable that an Administration receive the staffing to which it is entitled, the Trump Administration has been able to make remarkable progress on land, resource and energy issues even in the face of that nomination stonewalling."

For their part, Democrats say they aren't surprised by the lagging nominations, and some see it as part of a broader administration to systematically weaken federal agencies through neglect.

"I think they'll stay vacant for a while," House Natural Resources ranking member [Raúl M.](#)

Grijalva (D-Ariz.) told POLITICO. "I almost think there's a deliberateness not to do that — to let it through atrophy just die on the vine."

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POLITICO Pro Q&A: Senate EPW Chairman John Barrasso [Back](#)

By Anthony Adragna | 01/25/2018 04:02 PM EDT

Sen. John Barrasso begins his second year atop the Environment and Public Works Committee, and he says he's committed to moving an infrastructure package that he expects will have "presidential commitment and muscle behind it."

In an interview, Barrasso says he's urged administration officials to press President Donald Trump to "put some meat on the bones" of the infrastructure plan during the State of the Union address, and he wants to set deadlines of two years for federal permit approvals for projects.

And Barrasso is taking part in talks to alter the nation's biofuel program, and if legislation to revamp the Renewable Fuel Standard emerges, EPW would give "serious consideration" to proposals to modernize the program.

The following transcript has been edited for length and clarity.

An infrastructure package is a key priority for 2018. Sen. Jim Inhofe said he was "frustrated" the White House's plan has yet to emerge and Sen. John Thune said the president would have to show real leadership to get something done this year. Do you share their concerns?

At the committee meeting last week we had both Secretary of Transportation [Elaine] Chao, as well as [National Economic Council director] Gary Cohn attending and visiting with us about infrastructure. And this was a bipartisan meeting. We had most of the members — Republicans and Democrats. We're committed — Republicans and Democrats — to getting something done.

It's a big priority for the committee. I think we've had a very successful 2017 with lots of accomplishments. But infrastructure is clearly a main topic to the point that I believe at our retreat next week, we're going to be having a discussion on infrastructure again with the secretary of Transportation.

So you're optimistic about getting something done even though legislating during an election years can be more difficult?

I'm committed to working with the administration and with the Democrats, and certainly with all the members of our committee on both sides of the aisle, to get something done. I think it's

important. We have a need in the community and in the country. There's no question about it.

And part of what we're doing with WRDA right now is infrastructure. Water resource development is infrastructure. But you need to deal with the roads, the highways, the bridges, the dams, all of it out there. So, I'm optimistic. We'll be discussing it at the retreat and I hope the president brings it up in the State of the Union. And I mentioned that to both Director Cohn and Secretary Chao that I think it would be good to have the president put some meat on the bones during the State of the Union address next Tuesday.

Have you ever thought of putting out your own plan since the White House's timeline seems to have slipped?

We've been working on a plan that I've been working on with the Democrats as well. Many of the hearings that we have have been infrastructure-related. The president has frequently talked about upgrading the infrastructure of the country, and I think we need a robust infrastructure bill with presidential commitment and muscle behind it. And I believe we'll get it.

Do you see opportunities in the package that emerges to tweak or revisit provisions of the Clean Air Act, Clean Water Act, Endangered Species Act and National Environmental Policy Act?

So much of what I'm focused on now are the roads and bridges, but clearly you need to be able to get projects done. You need to be able to streamline this whole process so that projects can be both started faster and finished faster, because you want to make sure taxpayers are getting bang for their buck. You need to have things [so] people feel that they're not just being dragged out. It just seems silly when you see some project that could take months to complete but years to permit — people get the fact that that's a sign of Washington not getting its job done.

Things [have to be] approved by a certain period of time — whether that's two years [or] a shorter period of time. And if they can't get the permits done, at what point do you say, "Look, people have made their best faith effort and this government couldn't get permits done?" To me, that says they ought to be approved if the government can't work its way through the process in a short period of time. Most people around the country don't think two years is a short period of time but for government that's setting speed records.

The perennial issue with infrastructure seems to be paying for it, and I would imagine some of the ideas often floated, like a gas tax hike, are probably non-starters for you. Are there other promising ideas you've seen to date?

There's a difference between rural and urban. [Public-private partnerships] can work in urban areas. They're not going to work in rural areas. So you need federal funding and commitment for rural areas, which aren't going to lend themselves to the partnerships between the public and the private areas. You almost need to look at the two separately and in our discussions with the administration, they do seem to have the two tracks for an urban versus a rural approach. And funding in that.

What's it been like working with the Democrats so far in this? Have Ranking Member Tom Carper and his staff been open partners and also looking to get something done?

Senator Carper is actually a very good partner to work with. He was here visiting with me today for a half an hour in my office. I go visit with him and we visit on the floor frequently. We had four dozen hearings last year, advanced a lot of nominations, passed a lot of different legislation of all different kinds.

We have all these discussions about how to more quickly update and modernize the permitting process and also how to pay for things. His model and mine are a little different on the funding, but we know we need to get this done and find a way to do this. The EPW committee, from a public works standpoint, has had a lot of success in the past. It's done a lot of work in a bipartisan way. I think we've worked very closely, both sides of the aisle, to make sure the people who came in to testify — and clearly I had a lot of people from Wyoming to talk about rural issues and rural needs and why they're unique — but I think every member of the committee would say they've felt they've had an opportunity to bring somebody in from their state to make the case about what their specific needs could be whether it's highways, bridges, dams, water, ports, you name it.

Have you been participating in the talks between Sen. John Cornyn and other senators on Renewable Fuel Standard issues? And do you think there's a compromise possible on biofuels that can get through your committee?

I've been part of those discussions, yes.

We need a solution to the problem. The way that the RFS program was put into place, in my opinion, did not visualize where we are today, with a greater amount of fuel efficiency, with the number of electric vehicles. So the system that was designed was one that just viewed greater and greater volumes of gasoline being used. And didn't take into account some of the changes that we've seen with technology.

If a refinery goes bankrupt because of a system that the government put in place after the refinery was built, that's not a system that's worked. So we need to modernize and modernize this to take into account where we are today with the technology and the vehicles and the amount of fuel being consumed.

[Cornyn's] leading the efforts to develop this bipartisan reform bill that all the stakeholders can support and then once that's introduced the committee is going to give it serious consideration.

A number of the West Coast states have blocked coal export facilities from being built. Is there a role at all for the federal government to intervene?

I think it's important to be able to export coal. People around the world want to buy energy from America. The president talks about energy dominance and we need to use the resources that we have in this country. We've gone from energy security to energy independence to energy dominance. And to be able to use energy as the geopolitical weapon that it can be and deal with

how [Russian President Vladimir] Putin uses energy as a weapon, I think we need to make sure that we have opportunities to sell to other countries what we have in the United States in abundance. It's good for our jobs, it's good for the economy. Energy, as a resource, it's called the master resource for a reason because of what it powers. It powers our economy. It powers our jobs. And powers the military. So it's an instrument of power. It's a force multiplier, and I think we should use it as such.

I'd like to see those ports opened up. Many of the workers there want those jobs in those areas but you have this division between the workers — many of whom are union workers — and the environmental extremists who are trying to block them. That's where the loggerheads is and we're trying to get those ports open.

What are your thoughts on being EPW chairman after Year One? Are you enjoying the job so far and how do you balance those responsibilities with your time atop the Senate Republican Policy Committee?

Wyoming [is] such an energy state and, to me, the most beautiful state in the country — and maybe one of the most beautiful places in the world. So what you know is from the standpoint from the people of Wyoming, we have protected our environment. We have great respect for our environment and the best stewards of the land are the people that live on the land. We have a long history of doing it right and we have multiple use of the land in Wyoming. Half of the land in Wyoming is run and owned by the federal government, so we know what it's like to have such a large federal footprint in the state. And we just believe we ought to be able to use our resources and do it in ways that are respectful of the environment as we have done it.

It's an area that to me is a great deal of focus. It's something I've worked on from the day I showed up in the Senate, the first day I took the oath of office. That hasn't changed. I'm just able to have additional opportunity to bring people back from Wyoming to testify on the topics that are in front of the committee. So I think that helps lend voice to the vision and the values that we have in Wyoming.

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EPA drops 'once in, always in' policy from key Clean Air Act requirements [Back](#)

By Alex Guillén | 01/25/2018 06:11 PM EDT

EPA today withdrew a Clinton-era policy that was designed to prevent major emitters like power plants and factories from getting out of tough requirements to limit their toxic air emissions.

In a new [memo](#), EPA air chief Bill Wehrum wrote that the "once in, always in" policy "is contrary to the plain language" of the Clean Air Act. Wehrum revoked a [1995 guidance memo](#) outlining the policy and said EPA would consider new regulations to clarify its interpretation of

the law.

Under the now-revoked guidance, any emitter that qualified as a "major" source of hazardous air pollutants would forever be subject to that tougher standard to comply with MACT rules, even if its emissions dropped low enough to be considered an "area" source subject to fewer or no requirements. Wehrum's memo said the law does not specify that such classifications are permanent.

"EPA has now determined that a major source which takes an enforceable limit on its [potential emissions] and takes measures to bring its HAP emissions below the applicable threshold becomes an area source, no matter when the source may choose to take measures to limit its" potential pollution emissions, Wehrum wrote.

Wehrum argued that the policy shift will actually encourage sources that hesitated to install emission reduction projects to move forward. Environmentalists, however, quickly blasted the change on social media.

The Bush administration twice attempted to change the OIAI policy but never succeeded.

WHAT'S NEXT: Wehrum's memo says EPA will "soon publish a Federal Register notice to take comment on adding regulatory text that will reflect EPA's plain language reading of the statute."

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Brown thumps Trump in final State of the State address [Back](#)

By David Siders and Carla Marinucci | 01/25/2018 05:57 PM EDT

SACRAMENTO — In a wide-ranging defense of California — and a rebuke of President Donald Trump and the Republican-held Congress — Gov. Jerry Brown on Thursday rallied this bulwark of the Democratic Party to push forward on climate change, immigration and high-speed rail, signaling another year of conflict between Washington and the nation's most populous state.

Delivering his final State of the State address, Brown cast California as a more enlightened alternative to "the poison in our politics" and to "the abysmal approval ratings given to the U.S. Congress."

He called for the state to complete a massive high-speed rail project reviled by many Republicans in Washington, and to put 5 million zero-emission vehicles on California roads by 2030.

"Despite what is widely believed by some of the most powerful people in Washington, the

science of climate change is not in doubt," the Democratic governor told a joint session of the Legislature here. "All nations agree except one, and that is solely because of one man: our current president."

Brown said, "Here in California, we follow a different path."

Brown and the state's heavy bench of Democratic officeholders have feuded with Trump since the Republican president took office last year. But tensions heightened this month, with the Trump administration threatening to undermine the state's marijuana market, proposing oil drilling off the California coast and vowing to dramatically increase immigration enforcement in the state.

On Wednesday, the state attorney general, Xavier Becerra, filed litigation challenging the Trump administration's repeal of an Obama-era hydraulic fracturing regulation, while Trump took aim at San Francisco and other sanctuary cities that he said are the "best friend of gangs and cartels like MS-13."

While relatively cautious in his criticism of Trump, Brown's agenda — combating climate change, health care, defending a state gas tax increase — stands starkly at odds with the White House, and the governor implicitly cut at Trump.

Recalling headlines that derided California as "ungovernable" and "doomed" when Brown inherited a yawning budget deficit as he took office in 2011, Brown said, "Even today, you will find critics who claim the California dream is dead. But I'm used to that."

Now California enjoys a budget surplus, and Brown pointed to the state's approval of a water bond, a budget reserve and a cap-and-trade extension, among other legislative achievements, as evidence "that some American governments actually can get stuff done."

Heralding crowds that participated in Women's March events this month and activists who champion the cause of undocumented young people, Brown said, "In all this, California was in the forefront, showing the way."

In a reflective address — at nearly 30 minutes, unusually long for Brown — the governor acknowledged Trump's approval of "substantial assistance" in disaster aid after California's devastating wildfires and mudslides.

But Brown excoriated the Republican majority in Washington for its attempt to undo health care legislation on which California relies for billions of dollars in federal aid.

"Thank God for John McCain, Lisa Murkowski and Susan Collins," he said. "Along with the Democrats, they prevailed and protected health care for tens of millions of Americans."

For Brown, a fourth-term governor who abandoned his own presidential ambitions after running three times for the White House, the speech served as a reminder of the accomplishments of his final terms, but also the uncertainty of his legacy as he prepares to leave office in January 2019.

Brown is almost sure to be replaced by a Democrat keeping with his positions on climate change and immigration. But as Brown prepares to exit public life, California's poverty rate remains the highest in the nation when adjusted for the cost of living, and the state's tax system relies heavily on its top earners, a major source of volatility. Brown's two signature infrastructure initiatives — building high-speed rail and a water conveyance system — are also mired in uncertainty, with multibillion price tags and fierce political opposition to both projects.

Earlier this month, California officials said the estimated cost of an initial leg of the project in California's Central Valley had alone climbed \$2.8 billion, throwing into doubt the state's cost estimate for the overall project of about \$64 billion. The project will almost certainly require additional federal money, which proponents acknowledge is unlikely while Republicans control the House.

On Thursday, Brown said, "I make no bones about it. I like trains, and I like high-speed trains even better."

"Yes, it costs a lot of money," he said. "But it's still cheaper and more convenient than expanding airports, which nobody wants to do, and building new freeways."

Brown was flanked on the rostrum by two of the several Democrats who are bidding to succeed him. Many of those candidates, including the front-runner, Lt. Gov. Gavin Newsom, have been more strident than Brown in their rhetoric deriding Trump, suggesting animosity between the state and Washington may only intensify.

After Brown's remarks, Newsom said Brown's speech underscored the challenges ahead for California leaders of the next generation.

"It's a baton to be passed," he said, one that emphasizes "success is not a definition — it's a direction."

Brown, governor before from 1975 to 1983, drew loud applause in the Assembly chambers, and even Republicans praised him for his fiscal moderation. But Republican Assemblywoman Catharine Baker said she was concerned "to see him double down on high-speed rail," while Republican Assembly Leader Brian Dahle said Brown failed to adequately address the rising cost of living in the state.

"Some people are spending 50 percent of their pay on rent," Dahle said. With increasing taxes, Dahle said, "they're raising revenues off the back of people here."

Yet Republicans represent a small minority in the California Legislature and have little influence in state politics. And Brown, with a favorable approval rating and millions of dollars remaining in his campaign war chest, has avoided lame-duck treatment entering his final year. He pledged to "do everything in my power" to defeat an effort to repeal a gas tax increase.

Asked as he left the lectern what his father, the late Gov. Edmund G. "Pat" Brown, would say

about his final speech, Brown said, "Persistence."

Then asked if he would run for office again, Brown — who has said before that he will not run for president in 2020 — offered a familiar quip.

"You never know," the 79-year-old said. "Never say never."

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California to sue over federal fracking rule repeal [Back](#)

By Alex Guillén | 01/24/2018 12:00 PM EDT

California will sue the Trump administration for repealing the Obama-era fracking rule, California Attorney General Xavier Becerra announced today.

The repeal of the 2015 Bureau of Land Management regulation was [formalized](#) late last month.

"They didn't follow the law, they didn't let the law or the facts change their way in their zeal to repeal what was a commonsense measure," Becerra told reporters on a conference call. California's lawsuit will argue Interior violated the Administrative Procedure Act by failing to justify the repeal, and Becerra said the state also will pursue NEPA violations over the environmental impacts of fracking.

"I think there is plenty of reason to doubt that the fracking repeal engaged in by the administration will withstand scrutiny in a court," Becerra added.

The Obama fracking rule was struck down in 2016 by a federal judge in Wyoming who said Interior did not have the authority to regulate the practice at all. That issue was on appeal to the 10th Circuit, but that case is expected to be dismissed as moot and the lower court's ruling vacated now that the rule has been repealed.

Becerra sidestepped questions about how California could win when the underlying rule was itself in legal jeopardy, saying the lawsuit over the repeal "is going to stand on its own."

WHAT'S NEXT: California will file the lawsuit over the fracking rule's repeal.

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South Korea asks for WTO consultation with U.S. over washing machine, solar import curbs [Back](#)

By Adam Behsudi | 01/25/2018 10:48 AM EDT

South Korea has filed two separate requests at the WTO for consultations with the United States on recent restrictions on imports of [washing machines](#) and [solar products](#), arguing that the actions violate several international trade rules.

The requests made on Wednesday begins a process under the WTO's safeguards agreement. The requests are different from the WTO's dispute settlement process but could still lead to South Korea retaliating against the U.S. actions if the two countries can't settle their differences in 30 days.

President Donald Trump this week [approved](#) import restrictions on washing machines and solar products under Section 201 of the Trade Agreement of 1974.

Countries are allowed a certain amount of flexibility to impose safeguards under WTO rules, but South Korea argues that the U.S. action breaches a number of provisions under the safeguards agreement and the General Agreement on Tariffs and Trade.

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